

ST 02-0213-GIL 09/25/2002 GROSS RECEIPTS

The Illinois Retailers' Occupation Tax (sales tax) is imposed upon the total gross receipts that are received by a retailer who makes a retail sale to an Illinois end user. See 86 Ill. Adm. Code 130.101. (This is a GIL).

September 25, 2002

Dear Xxxxx:

This letter is in response to your letter that we received on July 3, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at the Department's Website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

I ask for a binding letter ruling regarding sales tax.

Issue: Whether the sales tax base is the full retail price less a discount amount when the retailer later receives full or partial reimbursement from the manufacturer for the discount? Whether the sales tax base is the full retail price (including a discount amount) when the retailer later receives full or partial reimbursement from the manufacturer for the discount? Additionally under such circumstances, whether the customer receipt information impacts the sales tax base?

Scenario 1: Retailer regularly sells Product A, a taxable item, for \$25.00. Manufacturer of Product A wishes to promote the product to consumers for a limited time period of one month. The promotion requires Retailer to lower the price of Product A to \$20.00 and place a point-of-sale sign showing the new \$20.00 price. In exchange for lowering the retail price to \$20.00 and placing a sign, Manufacturer will reimburse Retailer the \$5.00 per item difference. At the end of the one-month promotional period, Retailer will total the number of Product A sold during that time, multiply by the price difference of \$5.00 and receive a reimbursement from the manufacturer accordingly. The customer does not use a store coupon nor does the customer use a manufacturer coupon. The discount is automatic and given to all customers. The customer is unaware of the manufacturer reimbursement. The customer receipt reflects the savings:

Product A	\$25.00
Savings	(\$ 5.00)
Total Price	\$20.00
Tax	\$????
Total Due	\$20.00 plus tax

Scenario 2: Retailer regularly sells Product A, a taxable item, for \$25.00. Manufacturer of Product A wishes to promote the product to consumers for a limited time period of one month. The promotion requires Retailer to lower the price of Product A to \$20.00 and place a point-of-sale sign showing the new \$20.00 price. In exchange for lowering

the retail price to \$20.00 and placing a sign, Manufacturer will reimburse Retailer \$3.00 of the \$5.00 per item difference. At the end of the one-month promotional period, Retailer will total the number of Product A sold during that time, multiply by \$3.00 and receive a reimbursement from the manufacturer accordingly. The customer does not use a store coupon nor does the customer use a manufacturer coupon. The discount is automatic and given to all customers. The customer is unaware of the manufacturer reimbursement. The customer receipt reflects the savings:

Product A	\$25.00
Savings	(\$ 5.00)
Total Price	\$20.00
Tax	\$????
Total Due	\$20.00 plus tax

Scenario 3: Retailer regularly sells Product A, a taxable item, for \$25.00. Manufacturer of Product A wishes to promote the product to consumers for a limited time period of one month. The promotion requires Retailer to lower the price of Product A to \$20.00 and place a point-of-sale sign showing the new \$20.00 price. In exchange for lowering the retail price to \$20.00 and placing a sign, Manufacturer will reimburse Retailer the \$5.00 per item difference. At the end of the one-month promotional period, Retailer will total the number of Product A sold during that time, multiply by \$5.00 and receive a reimbursement from the manufacturer accordingly. The customer does not use a store coupon nor does the customer use a manufacturer coupon. The discount is automatic and given to all customers. The customer is unaware of the manufacturer reimbursement. The customer receipt does NOT reflect the savings:

Product A	\$20.00
Total Price	\$20.00
Tax	\$????
Total Due	\$20.00 plus tax

What is the amount subject to sales tax in the above scenarios and why? If sales tax is due on the discounted retail price plus the reimbursement, why is the savings amount not considered a cost of sales adjustment? Please cite statutes and regulations in the answer.

If the tax base is other than the discounted retail price, \$20.00 in the above scenarios, does the state expect retail registers to calculate tax on a price higher than a customer actually pays? Can retailers collect any sales tax due on the discount from the customer?

Thank you for your assistance.

The Illinois Retailers' Occupation Tax (sales tax) is imposed upon the total gross receipts that are received by a retailer who makes a retail sale to an Illinois end user. See 86 Ill. Adm. Code 130.101. Gross receipts from the sale of tangible personal property at retail is defined as the total selling price and includes all consideration for a sale as set out in 35 ILCS 120/1.

The enclosed copy of 86 Ill. Adm. Code 130.2125 explains the taxability of discount coupons. The principles set out in Section 130.2125(b) apply to discounts irrespective of whether a piece of

paper denominated as a coupon is presented and these principles should be read in conjunction with 86 Ill. Adm. Code 130.420(c).

When a retailer allows a purchaser a discount from the selling price for which the retailer receives no reimbursement from any source, the amount of such discount is not subject to tax. The amount received by the retailer in this transaction, which is lower than the normal selling price, would be the retailer's taxable gross receipts for that sale.

If the retailer is reimbursed by any source for a discount from the normal selling price, those receipts are subject to tax. The retailer incurs tax liability on the receipts received from the purchaser and the amount of any discount reimbursement, whether from the manufacturer or any other source. The retailer is responsible for remitting tax to the Illinois Department of Revenue as measured by the total gross receipts, whether or not the customer invoice shows the additional gross receipts that are received from a source other than the customer.

Because the total gross receipts received by the retailer from whatever sources measure the tax, this total amount should be shown on the customer invoice. In the context of your examples the gross receipts or selling price for scenarios 1 and 3 is \$25.00 and is \$23.00 for scenario 2. Retailers should not be cavalier about this obligation, as retailers are generally required to state the selling price and the tax on the invoice as a separate item and to collect the tax exactly at the applicable rate. See 86 Ill. Adm. Code 150.601, 150.135(d), and 150.510.

Please remember that the retailer is liable for Retailers' Occupation Tax on the total gross receipts he has received from all sources, not just those received from customers.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

KWB:msk
Enc.